



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: JULY 15, 2008

ITEM NUMBER:

**SUBJECT: REVIEW OF ZONING APPLICATION ZA-08-17 TO AMEND CONDITIONS OF APPROVAL FOR THE WESTSIDE LOFTS FINAL MASTER PLAN PA-07-20 AT 1640 MONROVIA AVENUE**

**DATE: JUNE 30, 2008**

**FROM: PLANNING DIVISION/DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: DONALD LAMM, DIRECTOR  
CLAIRE L. FLYNN, AICP, PRINCIPAL PLANNER**

**FOR FURTHER INFORMATION CONTACT: CLAIRE FLYNN, PRINCIPAL PLANNER  
(714) 754-5278**


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## **PROJECT DESCRIPTION**

Review of Planning Commission's approval of ZA-08-17, a request to amend the conditions of approval for the Westside Lofts Final Master Plan PA-07-20 to allow the 151 residential units to be initially offered as rental units.

## **RECOMMENDATION**

Uphold, modify, or reverse the Planning Commission's approval of Zoning Application ZA-08-17 regarding modifications to the conditions of approval of the Westside Lofts Master Plan.

  
\_\_\_\_\_  
CLAIRE L. FLYNN, AICP  
Principal Planner

  
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DONALD D. LAMM, AICP  
Deputy City Mgr. – Dev. Svs. Director

## **BACKGROUND**

### ***Project Summary:***

*Zoning Application ZA-08-17* is a request to amend the original conditions of approval of the Westside Lofts final master plan. No design or density changes to the project are proposed.

In November 2007, Planning Commission approved the Westside Lofts project at 1640 Monrovia Avenue (Vicinity Map, Attachment 1). This project included a master plan for development of a mixed-use development including 42,000 square feet of commercial space, 151 residential condominiums, and five live/work units, and a 4.5-level parking structure (Attachment 8). The project also included a vesting tentative tract map (VT-16999) for subdivision of the property into office uses, live/work units and common interest development that was approved concurrently with the final master plan.

### ***Recent Actions:***

On June 23, 2008, the Planning Commission approved ZA-08-17 to amend Conditions Nos. 4, 6, and 17 to allow the residential units to be initially offered as rental units. The amendment to these conditions in Final Master Plan PA-07-20 were approved on a 4-1 vote (Commissioner Egan voting no).

On June 26, 2008, Mayor Pro Tem Alan Mansoor filed a request to review the Planning Commission's action on ZA-08-17 (Review Form, Attachment 4).

## **ANALYSIS**

### ***Modified Conditions of Approval***

Following is a summary of the three conditions (Conditions 4, 6 and 17) that were modified by the Planning Commission to allow the 151 condominium units to be initially offered as rental units.

The attached Planning Commission resolution for ZA-08-17 and meeting minutes provide background information on the modification of these three conditions of approval (Attachments 5 and 6).

- Condition No. 4 – Prior to issuance of building permits, the developer shall provide the Conditions, Covenants, and Restrictions (CC&Rs) to the Development Services Director and City Attorney's office for review. The CC&Rs must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office. With respect to the residential condominiums, the CC&Rs shall contain provisions that effectively implement the following requirements: (1) require that the homeowner's association (HOA) manage tenant and guest parking onsite and have the authority to employ necessary measures (e.g. valet parking, mechanical lift parking, tandem parking) as needed; if onsite parking is not appropriately managed by the HOA, the Development Services Director shall require implementation of corrective measure(s) to address onsite parking problems in the future; (2) require that the HOA contract with a towing service to enforce the parking regulations; (3) require that the HOA prohibit any clothing, beach towels, banners, textiles, or any other items deemed as visual clutter to be hung from private balconies; and (4) occupancy limits applicable to the residential units. With respect to the live/work units, the CC&Rs shall contain provisions requiring that the homeowner's association (HOA) require that the enclosed garages are to be used solely for their intended use of parking of two vehicles and shall not be used for any other purpose (e.g. storage). The CC&R's, as applicable, shall contain a provision that any subsequent revisions to the CC&Rs related to the above provisions must be reviewed and approved by the City Attorney's office and the Development Services Director before they become effective. The requirements of this section shall apply to the residential component and the live/work units only.
- Condition No. 6 – Applicant shall provide proof of establishment of a homeowner's association with respect to the residential condominiums prior to release of any utilities.
- Condition No. 17 – All live/work units shall be initially offered as "for sale" units. With respect to the residential condominiums, prior to recordation of the final subdivision map, the applicant shall provide evidence obtained from the State of California Department of Real Estate that it has received a substantially completed subdivision public report application. Prior to receipt of a certificate of occupancy for the residential condominiums, the applicant shall provide evidence that CC&Rs (in substantial conformance with the CC&Rs previously approved by the Development Services Director and City Attorney's office with respect to the provisions set forth in condition 4 above (only)) have been recorded and that a homeowners association has been established. Subject to compliance with the above conditions, all 151 residential condominiums may be initially offered as rental units and applicant may continue to rent and/or lease the units for an indefinite period of time. Notwithstanding the foregoing, (1) the subdivision map shall be final and recorded prior to issuance of building permits; (2) park fees currently estimated at approximately \$1.6 million dollars shall be remitted to the

City prior to approval of the final map; and (3) the residential condominium units shall be constructed to condominium building standards (e.g. advanced noise attenuated walls, increased firewall standards). If, at any time after completion of the residential condominiums, the Developer decides to sell the individual units, provided Developer has a valid Final Public Report from the Department of Real Estate, no further approval from the City shall be required.

### ***Justifications for Modifying the Conditions***

Planning Commission justified these modifications based on the following:

1. *There is a misperception that the original approval of the Westside Lofts Master Plan provided a 100% guarantee that the units will be condominiums. This is technically not accurate.* Concerns have been expressed by Westside business owners and residents that these modified conditions would negatively impact the original Westside Lofts project. There is a perception that the original approval provided a 100% guarantee that these 151 residential units be sold as condominiums.

However, there is no complete guarantee in the original approval that the units be sold as condominiums. While there were requirements that the residential units be *initially offered* as condominiums (e.g. Condition No. 17) and subdivision map for condominium purposes be recorded, these requirements do not represent a 100% guarantee that the units be owner-occupied.

Technically, the original Condition No. 17 allows the Developer to "initially offer" the sale of these units for an unspecified timeframe. If the market conditions diminish the sales opportunities, a second offering of these units as rentals would still be consistent with Condition No. 17 as originally worded.

First, under the original conditions of approval, Nexus may make an effort to market and initially offer these units as condominiums, but they may still ultimately *lease* the units if the market does not respond. Second, a condominium owner may purchase a unit and then lease the unit to another individual.

2. *Under the original approval, property owner may still retain ownership of condominiums and ultimately offer them as rentals.* For example, The Lakes Apartments on Sunflower Avenue/Avenue of the Arts was originally approved and built as a condominium development. While a final map was recorded which allows the units to be sold as condominiums, this development has functioned as an apartment complex.

More recently, a 10-unit single-family detached residential development was constructed at 2436 Newport Boulevard. These are large homes ranging from 1,800 to 2,000 square feet in size. While a final map is recorded, due to the housing market conditions, all 10 units are now being leased. It is the developers hope that the market will soon recover and these homes will be eventually sold.

3. Modified conditions still maintain requirements to assure that these residential units are sold as condominium units in the future. The applicant is still required to make a significant investment in the project by implementing **all** of the necessary procedures related to condominium development. These include:
  - A subdivision map for condominium purposes must still be recorded prior to issuance of building permits.
  - Applicant must pay approximately \$1.6 million in park fees to the City prior to approval of the final map.
  - A homeowner's association must be established prior to sale of the condominium units.
  - CC&Rs must be created and filed with the Department of Real Estate.
  - Building construction must be upgraded to condominium standards.

### ***Additional Conditions of Approval***

If Council upholds the Planning Commission's action, Council may consider additional measures such as:

- To ensure that the buildings are demolished in a timely manner to prevent the site from continuing in its present condition, Council may add new Condition No. 57 requiring that the buildings be demolished within 24 months of the approval of ZA-08-17.
- To specify a limited timeframe for the units to be leased, Council may add new Condition No. 58 requiring that the leasing period of the units shall be for a maximum period of 5 years (from the date of the last certificate of occupancy issued for the residential project), unless otherwise amended at a future date by the Planning Commission.

If additional conditions of approval are added, the resolution will be updated accordingly.

Public correspondence is provided as Attachment 7.

## **ALTERNATIVES**

The City Council has the following alternatives:

1. *Uphold Planning Commission's action for approval of the requested amendments to Conditions Nos. 4, 6, and 17 of Final Master Plan PA-07-20.* This action requires that all procedures related to the provision of condominium units still be implemented by the applicant; however, this action would allow the units to be initially offered for lease.
2. *Overtum Planning Commission's action and deny modifications to conditions of approval of Final Master Plan PA-07-20.* This action does not necessarily guarantee that the 151 residential units are not leased. If the applicant makes an effort to "initially offer" the units as condominiums but ultimately leases the units, they would still be in compliance with the original conditions of approval. The likely consequence of this action is that it may result in the inability to secure immediate bank financing for this project and delay project construction for several years.

## **CONCLUSION**

The original approval of the Westside Lofts Master Plan provides reasonable assurances—but not a 100% guarantee—that the 151 residential units will become condominiums.

The original approval requires the residential units to be "initially offered" for sale. Technically, however, the applicant may still comply with the original conditions by making an initial effort to sell the units as condominiums, but ultimately still offer the units for lease if condominium sales are not happening. The Planning Commission's approval of the applicant's request would eliminate a requirement that the units be "initially offered" as condominiums and would allow the units to be offered for lease.

- Attachments:
1. Zoning/Location Map
  2. Council Resolution for Approval
  3. Council Resolution for Denial
  4. Appeal
  5. Planning Commission Minutes of June 2008
  6. Planning Commission Resolution PC-08-55
  7. Public Correspondence
  8. Project Plans

cc: Ms. Cindy Nelson  
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Mr. Mike Evans  
1720 Whittier  
Costa Mesa, CA 92627

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Railmakers, Inc.  
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Costa Mesa, Ca 92626

Mr. Roger MacGregor  
Roger MacGregor Yacht Corporation  
1631 Placentia  
Costa Mesa, CA 92627

File Name: 071508ZA0817Review	Date: 070308	Time: 1:00 p.m.
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## City of Costa Mesa

1640 MONROVIA AVE. - [Created: 6/6/2008 2:37:27 PM] [Scale: 214.29] [Page: 8.5 x 11 / Portrait]

## Overview Map



## Legend

Address  
SmallFreeway  
RoadsFreeway  
MajorNewport BLVD  
(cont.)Primary  
SECONDARY  
Waterway  
LinesAddress  
PointsCollector  
(cont.)

## Map Display



**RESOLUTION NO. 08-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA APPROVING ZA-08-17 FOR AN AMENDMENT TO CONDITIONS OF APPROVAL OF PLANNING COMMISSION RESOLUTION PC-07-79, WHICH APPROVED THE FINAL MASTER PLAN PA-07-20 FOR THE WESTSIDE LOFTS MIXED USE DEVELOPMENT AT 1640 MONROVIA AVENUE.**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, Zoning Application ZA-08-17 was filed by Cynthia Nelson of Nexus Development Corporation for the property located at 1640 Monrovia Avenue, requesting modification of Resolution PC-07-79 to allow 151 condominium units to be initially offered as rental units;

WHEREAS, the proposed Westside Lofts mixed-use development consists of a Final Master Plan PA-07-20 for (a) 42,000 sq. ft. commercial space in two- to-four story buildings; (b) 151 residential condominiums in a four-story building complex; (c) 5 custom live/work units in three-story buildings; (d) 4.5-level parking structure and surface parking spaces (overall total of 475 parking spaces);

WHEREAS, a duly noticed public hearing was held by the Planning Commission on June 23, 2008 with all persons having been given the opportunity to be heard both for and against the proposed project;

WHEREAS, Zoning Application ZA-08-17 involves revising Conditions 4, 6 and 17 of PC Resolution PC-07-79 to reflect the following final language:

**Condition No. 4.**

Prior to issuance of building permits, the developer shall provide the Conditions, Covenants, and Restrictions (CC&Rs) to the Development Services Director and City Attorney's office for review. The CC&Rs must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office. With respect to the residential condominiums, the CC&Rs shall contain provisions that effectively implement the following requirements: (1) require that the homeowner's association (HOA) manage tenant and guest parking onsite and have the

authority to employ necessary measures (e.g. valet parking, mechanical lift parking, tandem parking) as needed; if onsite parking is not appropriately managed by the HOA, the Development Services Director shall require implementation of corrective measure(s) to address onsite parking problems in the future; (2) require that the HOA contract with a towing service to enforce the parking regulations; (3) require that the HOA prohibit any clothing, beach towels, banners, textiles, or any other items deemed as visual clutter to be hung from private balconies; and (4) occupancy limits applicable to the residential units. With respect to the live/work units, the CC&Rs shall contain provisions requiring that the homeowner's association (HOA) require that the enclosed garages are to be used solely for their intended use of parking of two vehicles and shall not be used for any other purpose (e.g. storage). The CC&R's, as applicable, shall contain a provision that any subsequent revisions to the CC&Rs related to the above provisions must be reviewed and approved by the City Attorney's office and the Development Services Director before they become effective. The requirements of this section shall apply to the residential component and the live/work units only.

Condition No. 6

Applicant shall provide proof of establishment of a homeowner's association with respect to the residential condominiums prior to release of any utilities.

Condition No. 17

All live/work units shall be initially offered as "for sale" units. With respect to the residential condominiums, prior to recordation of the final subdivision map, the applicant shall provide evidence obtained from the State of California Department of Real Estate that it has received a substantially completed subdivision public report application. Prior to receipt of a certificate of occupancy for the residential condominiums, the applicant shall provide evidence that CC&Rs (in substantial conformance with the CC&Rs previously approved by the Development Services Director and City Attorney's office with respect to the provisions set forth in condition 4 above (only)) have been recorded and that a homeowners association has been established. Subject to compliance with the above conditions, all 151 residential condominiums may be initially offered as rental units and applicant may continue to rent and/or lease the units for an indefinite period of time. Notwithstanding the foregoing, (1) the subdivision map shall be final and recorded prior to issuance of building permits; (2) park fees currently estimated at approximately

\$1.6 million dollars shall be remitted to the City prior to approval of the final map; and (3) the residential condominium units shall be constructed to condominium building standards (e.g. advanced noise attenuated walls, increased firewall standards). If, at any time after completion of the residential condominiums, the Developer decides to sell the individual units, provided Developer has a valid Final Public Report from the Department of Real Estate, no further approval from the City shall be required.

WHEREAS, the Planning Commission approved ZA-08-17 by adoption of Planning Commission Resolution PC-08-55 on June 23, 2008;

WHEREAS, the Planning Commission's decision was called up for review by the City Council, and a duly-noticed public hearing was held on July 15, 2008, with all persons having been given the opportunity to be heard both for and against the proposed project;

BE IT RESOLVED that, based on the evidence in the record, the City Council hereby upholds the Planning Commission's action and **APPROVES** the requested amendment to Resolution of Approval PC-07-79 with respect to the property described above.

BE IT RESOLVED that the City Council finds that Zoning Application ZA-08-17 related to the revision of Conditions 4, 6 and 17 of PC-07-79 does not have any significant material effect to the Westside Lofts mixed-use development project, as the subdivision map for condominium purposes, establishment of a homeowner's association, and all related provisions for owner-occupied housing for both the live/work units and residential condominiums will still be required. Therefore, the City Council finds that the original environmental and other findings for Final Master Plan PA-07-20, (**Exhibit 1, Exhibit "A," Findings of PC-07-79**) are still applicable to the project, as revised by Zoning Application ZA-08-17.

BE IT FURTHER RESOLVED that the City Council does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff reports for ZA-08-17 and PA-07-20, based on the originally-approved Planning Commission Resolution PC-07-79 (**Exhibit 1**). Specifically, Exhibit 1 contains the original findings contained in Exhibit "A" and the original conditions of approval contained in Exhibit "B" (as modified herein by ZA-08-17), and mitigation measures contained in Exhibit "C" of PC Resolution PC-07-79.

**PASSED AND ADOPTED this 15th day of July, 2008.**

\_\_\_\_\_  
ERIC BEVER  
Mayor, City of Costa Mesa

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY CLERK OF THE  
CITY OF COSTA MESA

\_\_\_\_\_  
CITY ATTORNEY

STATE OF CALIFORNIA) )ss  
COUNTY OF ORANGE )

I, JULIE FOLCIK, City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above Council Resolution No. 08-\_\_\_ as considered at a regular meeting of said City Council held on the \_\_\_ day of \_\_\_, 2007, and thereafter passed and adopted as a whole at the regular meeting of said City Council held on the \_\_\_ day of \_\_\_, 2008, by the following roll call vote:

**NOES:**

IN WITNESS WHEREOF, I have hereby set my hand and affixed the Seal of the City of Costa Mesa this \_\_\_\_ day of \_\_\_\_\_, 2008.

RESOLUTION NO. PC-07-79

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA, CALIFORNIA, ADOPTING THE WESTSIDE LOFTS INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND APPROVING FINAL MASTER PLAN PA-07-20 AND VESTING TENTATIVE TRACT MAP VT-16999 FOR THE WESTSIDE LOFTS MIXED-USE DEVELOPMENT IN THE MG ZONE AND MESA WEST URBAN PLAN/MIXED-USE OVERLAY ZONE AT 1640 MONROVIA AVENUE.**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the City Council enacted a Zoning Ordinance for a mixed-use overlay zone and adopted the Mesa West Urban Plan in April 2006 to allow mixed-use development, including live/work development, in specified areas of the Westside;

WHEREAS, an application was filed by Cindy Nelson of Nexus Development, authorized agent for the property owner, Grand Plan, LLC., for the Westside Lofts mixed-use development at 1640 Monrovia Avenue in the MG zone and Mesa West Urban Plan / mixed-use overlay zone;

WHEREAS, the proposed Westside Lofts mixed-use development consists of a Final Master Plan PA-07-20 for (a) 42,000 sq.ft. commercial space in two- to four-story buildings; (b) 151 residential condominiums in a four-story building complex; (c) 5 custom live/work units in three-story buildings; (d) 4.5-level parking structure and surface parking areas (overall total of 475 parking spaces);

WHEREAS, Final Master Plan PA-07-20 also includes minor deviations from the minimum FAR standard for the nonresidential component (0.175 FAR required, 0.161 FAR proposed) and maximum height limit for the parking structure (4 levels / 60 feet allowed, 4.5 levels / 54 feet proposed);

WHEREAS, the proposed project also includes a Vesting Tentative Tract Map VT-16999 for the subdivision of the property, including office uses, residential uses, and live/work units, for common-interest development purposes;

WHEREAS, the Initial Study/Mitigated Negative Declaration was prepared pursuant to CEQA, the CEQA Guidelines, and the City of Costa Mesa Environmental Guidelines. The environmental document considers all environmental impacts of the proposed project and identifies mitigation measures to reduce significant impacts to below a level of significance;


WHEREAS, the IS/MND was available for public review and comment from September 5, 2007 to October 4, 2007, and the Responses to Comments document provided responses to substantive comments received on the environmental document during the public review period;

WHEREAS, a duly noticed public hearing was held by the Planning Commission on November 13, 2007 with all persons having been given the opportunity to be heard both for and against the proposed project;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission considers that the granting of the minor deviations related to the nonresidential FAR and parking structure height would result in a mixed-use development that meets the overall intent and objectives of the Urban Plan;

BE IT FURTHER RESOLVED that based on the evidence in the record, the findings contained in Exhibit "A", and subject to conditions of approvals in Exhibit "B" and mitigation measures contained in Exhibit "C", the Planning Commission hereby **ADOPTS** the Westside Lofts IS/MND and **APPROVES** Final Master Plan PA-07-20 and VT-16999 with respect to the property described above. Should any material change occur in the operation, or should the applicant fail to comply with the conditions of approval, this Resolution, and any recommendation for approval herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 13th day of November, 2007

  
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DONN HALL  
Chair, Planning Commission

STATE OF CALIFORNIA )  
 )ss  
COUNTY OF ORANGE )

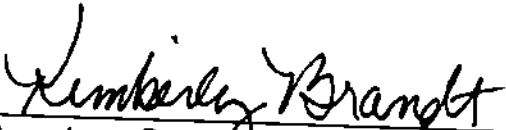
I, Kimberly Brandt, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on November 13, 2007, by the following votes:

AYES: COMMISSIONERS: HALL, FISLER, CLARK, EGAN, RIGHEIMER

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

  
\_\_\_\_\_  
Secretary, Costa Mesa  
Planning Commission

## EXHIBIT "A"

### FINDINGS

- A. Pursuant to Section 13-29(g)(5) of the Municipal Code, Final Master Plan PA-07-20 meets the broader goals of the 2000 General Plan and Mesa West Bluffs Urban Plan by exhibiting excellence in design, site planning, integration of uses and structures, and protection of the integrity of neighboring development.

The proposed mixed-use development will provide a new type of urban housing in the Westside, and this proposal complies with the important objectives of the Urban Plan: to promote Westside revitalization through homeownership, encourage owner-occupied housing, and apply flexible development standards to stimulate ownership housing. The project meets the purpose and intent of the mixed-use overlay district, and the stated policies of the Mesa West Bluffs Urban Plan. The new building will feature architecture that will complement the surrounding industrial uses. The proposed project would meet the industrial office and housing needs of a new community at a level no greater than which can be supported by planned infrastructure improvements. Planning Application PA-07-20 is consistent with the goals, policies, objectives, and/or regulations of the General Plan, Zoning Code, and Mesa West Bluffs Urban Plan.

The proposed residential use of the subdivision is compatible with the General Plan. The approval of the subdivision will allow home ownership opportunities without impacting rental housing. This is consistent with the goals, objectives, and policies of the General Plan Land Use and Housing Element.

- B. The proposed project complies with Title 13, Section 13-83.52(c), Mixed-Use Overlay District, of the Municipal Code because the Master Plan is found to exhibit excellence in design, site planning, integration of uses and structures and protection of the integrity of neighboring development. The proposed project complies with the Urban Plan to provide additional amenities or innovation in exchange for flexible development standards. The project includes adequate resident-serving amenities in the common and private open space areas including two different outdoor amenity areas and indoor clubhouses. Overall the proposed master plan represents a desirable product type in conformance with the City's policy and regulatory documents.
- C. The proposed project complies with Title 13, Section 13-83.52(d), Mixed-Use Overlay District, of the Municipal Code because:
- a) The strict interpretation and application of the Zoning Code's development standards would result in practical difficulty inconsistent with the purpose and intent of the General Plan and Mesa West Bluffs Urban Plan. While the proposed master plan does not strictly conform to development standards related to the parking structure height (4 levels allowed, 4.5 levels proposed) and minimum nonresidential FAR standard (0.175 FAR required, 0.16 FAR proposed), minor deviations from these regulations allow for a development that better achieves the purposes and intent of the General Plan and the Mesa West Bluffs Urban Plan. Deviation from development standards would still result in a well-designed urban housing project that is considered compatible with the

Westside. The 42,000 square foot office buildings and the work areas of the live/work unit are considered appropriate in size and scale for the 6.82-acre industrial site. The parking structure may exceed the story limit, but it is still within the height limit in terms of feet. The Urban Plan allows a 60-foot height limit, and the 4.5 level parking structure is proposed at 54 feet in height. Because the scale of the parking structure is still within the overall intent of the Urban Plan, this is considered a minor deviation.

- b) The granting of the deviation results in a mixed-use development which exhibits excellence in design, site planning, integration of uses and structures, and compatibility standards for this type of development in the Westside;
  - c) The granting of a deviation will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity. No adverse impacts from implementation of the proposed project are identified.
  - d) The long-term vision of the Mesa West Bluffs Urban Plan is to encourage marginal industrial properties to be redeveloped into mixed-use development, live/work units, and residential development. The strict application of code requirements for residential development standards would discourage redevelopment of this new type of urban housing and thereby deprive the property owner of special privileges afforded in the Urban Plan area. The requests for specified deviations are considered reasonable and would result in implementation of a mixed-use development and residential ownership project supportive of the Urban Plan vision.
- D. The proposed project complies with Title 13, Section 13-29(e), of the Municipal Code because:
- a) The proposed development and use is compatible and harmonious with uses both onsite as well as those on surrounding properties. Specifically, interior and exterior noise attenuation for the residential units is required. On-site hazardous materials remediation is also required prior to issuance of building permits.
  - b) Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered. The project shall provide a standard commercial drive approach from Babcock Street and Monrovia Avenue. Live/work units shall be constructed under commercial occupancy standards and fully-sprinklered. The lighting plan shall minimize light/glare to the surrounding neighbors and new residences to the fullest extent possible.
  - c) The planning application is for a project-specific case and does not establish a precedent for future development in the overlay zone.
  - d) The cumulative effects of Planning Application PA-07-20, including approval of requested deviations, have been considered.
- E. The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision, as required by Government Code Section 66473.1.

- F. The subdivision and development of the property will not unreasonably interfere with the free and complete exercise of the public entity and/or public utility rights- of-way and/or easements within the tract.
- G. The discharge of sewage from this subdivision into the public sewer system will not violate the requirements of the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000 of the Water Code).
- H. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures. The Westside Lofts Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the final master plan, pursuant to the California Environmental Quality Act. Although the proposed project could have a significant effect on the environment, mitigation measures have been included as conditions of approval that reduce impacts to the fullest extent reasonable and practicable. All significant impacts are reduced to below a level of significance with implementation of conditions and mitigation measures.
- I. Mitigation Measures from the Westside Lofts IS/MND have been included as conditions of approval. If any of these conditions are removed, the final approval authority must make a finding that the project will not result in significant environmental impacts, that the condition(s) are within the responsibility and jurisdiction of another public agency, or that specific economic, social, or other considerations make the mitigation measures infeasible.
- J. The evidence presented in the record as a whole indicates that the project will not individually or cumulatively have an adverse affect on wildlife resources or habitat. The project site consists of ornamental, non-native vegetation and does not contain, nor is it in proximity to, any sensitive habitat areas.
- K. The project, as conditioned, is consistent with Chapter XII, Article 3, Transportation System Management of Title 13 of the Municipal Code in that the project's traffic impacts will be mitigated at all affected intersections.
- L. The project has been reviewed for conformity with the Orange County Congestion Management Program (CMP) requirements and the additional traffic generated by the project does not cause the CMP highway system to exceed LOS "E".
- M. Pursuant to Section 13-29(g)(13) of the Municipal Code, the subject property is physically suitable to accommodate Vesting Tentative Tract Map VT-16999 in terms of type, design and density of development, and will not result in substantial environmental damage nor public health problems, based on compliance with the City's Zoning Code and General Plan.
- N. The site-specific 0.81 FAR for the Westside Lofts mixed-use development includes the building square footage of the commercial buildings, residential units, and live/work units. The floor area excludes the square footage of the parking structure, vertical shafts, and stairwell areas. The proposed scale, density, and intensity are considered suitable for the project site because the project is below the 1.0 FAR standard

established in the Mesa West Bluffs Urban Plan, and the overall project is within the development capacity of the General Plan.

- O. The project meets the purpose and intent of the Mesa West Bluffs Urban Plan related to an aesthetic analysis. An aesthetic analysis of the interface and compatibility between the proposed project and Playport Mobile Home Park located to the northwest was completed. The analysis related to shade/shadow impacts, neighborhood character, and privacy, and it concluded that the project was found to be compatible with surrounding residential uses. The proposed project would not result in significant adverse shade/shadow effects on the mobile homes. Furthermore, since the Urban Plan area has been identified as a revitalization area, this new type of four-story, "urban village" concept is within the height limit allowed, and deemed compatible with, uses in the overlay zone.
- P. The proposed buildings are an excessive distance from the street necessitating fire apparatus access and provisions of an on-site fire hydrant(s) as required by the Costa Mesa Fire Department. The City's Fire Department has required the installation of an automatic fire sprinkler system pursuant to NFPA 13 requirements.
- Q. The creation of the subdivision and related improvements is consistent with the General Plan and Mesa West Bluffs Urban Plan.

**EXHIBIT "B"****CONDITIONS OF APPROVAL**

- Plng. 1. Mitigation Measures from the Westside Lofts IS/MND have been included as conditions of approval. If any of these conditions are removed, the Planning Commission must make a finding that the project will not result in significant environmental impacts, that the condition(s) are within the responsibility and jurisdiction of another public agency, or that specific economic, social, or other considerations make the mitigation measures infeasible.
2. Final Master Plan PA-07-20/VT-16999 shall comply with the conditions of approval, code requirements, and mitigation measures of the Westside Lofts IS/MND and as listed in the attached Mitigation Monitoring Program (Exhibit "C"). Additional conditions of approval are also included as part of the Mitigation Monitoring Program.
3. The conditions of approval and code requirements for PA-07-20/VT-16999 shall be blueprinted on the page following or containing the site plan.
4. Prior to issuance of building permits, the developer shall provide the Conditions, Covenants, and Restrictions (CC&Rs) to the Development Services Director and City Attorney's office for review. The CC&Rs must be in a form and substance acceptable to, and shall be approved by the Development Services Director and City Attorney's office. With respect to the residential condominiums, the CC&Rs shall contain provisions that effectively implement the following requirements: (1) require that the homeowner's association (HOA) manage tenant and guest parking onsite and have the authority to employ necessary measures (e.g. valet parking, mechanical lift parking, tandem parking) as needed; if onsite parking is not appropriately managed by the HOA, the Development Services Director shall require implementation of corrective measure(s) to address onsite parking problems in the future; (2) require that the HOA contract with a towing service to enforce the parking regulations; (3) require that the HOA prohibit any clothing, beach towels, banners, textiles, or any other items deemed as visual clutter to be hung from private balconies; and (4) occupancy limits applicable to the residential units. With respect to the live/work units, the CC&Rs shall contain provisions requiring that the homeowner's association (HOA) require that the enclosed garages are to be used solely for their intended use of parking of two vehicles and shall not be used for any other purpose (e.g. storage). The CC&R's, as applicable, shall contain a provision that any subsequent revisions to the CC&Rs related to the above provisions must be reviewed and approved by the City Attorney's office and the Development Services Director before they become effective. The requirements of this section shall apply to the residential component and the live/work units only (**revised June 23, 2008 per ZA-08-17**).
5. Garages for individual units shall be equipped with automatic garage door openers and roll-up garage doors.
6. Applicant shall provide proof of establishment of a homeowner's association with respect to the residential condominiums prior to release of any utilities (**revised June 28, 2008 per ZA-08-17**).

7. The parking management plan shall be approved by the Development Services Director and Transportation Manager prior to issuance of building permits. The Parking Management Plan shall denote the following: (1) Method of allocation of assigned parking; (2) Location of visitor parking including appropriate signage; (3) Location of security gates if any, and how gates will be operated; (4) Location of employee parking.
8. Dependent on the final mix of bedroom types for the dwelling units and total square footage of nonresidential areas, the number of parking stalls and parking design configuration may be adjusted. If this mix is modified, a final parking study shall be reviewed/approved by the Development Services Director prior to issuance of a building permit. The parking study shall demonstrate the following:
  - a) Residential parking complies with the parking requirements of the Mesa West Bluffs Urban Plan.
  - b) Nonresidential parking, including shared parking within the residential guest parking areas, complies with parking rate for ancillary retail uses as deemed appropriate by the Development Services Director.

Final parking supply of any revised development scenario (i.e. revision in unit mix and square footage of nonresidential areas) shall conform to a shared parking study completed for the project and approved by the Development Services Director.

9. The approximately 1,750 square foot ancillary retail building shall consist of retail businesses.
10. The permitted and conditionally permitted uses for the five live/work units shall be as specified in the live/work matrix in the Mesa West Bluffs Urban Plan. All other uses not specifically described in the live/work matrix and which may involve higher traffic generating uses shall be considered as conditional uses or prohibited uses, as deemed appropriate by the Development Services Director.
11. Prior to issuance of grading permits, developer shall submit for review and approval a Construction Management Plan. This plan features methods to minimize disruption to the Playport Mobile Home Park and Westside residential communities through specified measures, such as construction parking and vehicle access and specifying staging areas and delivery and hauling truck routes.
12. Developer shall submit for review a Land Use Restriction requiring that the business operator(s) and resident(s) of a live/work unit be one and the same. In other words, the work space of the live/work unit shall not be subleased to person(s) not residing in the living quarters. The Land Use Restriction shall be approved by the Development Services Director and recorded by the Developer at the County of Orange prior to issuance of building permits.
13. [deleted]
14. Prior to issuance of building permits, developer shall contact the U.S. Postal Service with regard to location and design of mail delivery facilities. Such facilities shall be shown on the site plan, landscape plan, and/or floor plan.

15. For the residential component, the range of primary street addresses shall be displayed on a complex identification sign visible from the street. Street address numerals shall be a minimum 12 inches in height with not less than 3/4-inch stroke and shall contrast sharply with the background.
16. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc, shall be blueprinted on the site plan and on all floor plans in the working drawings.
17. All live/work shall be initially offered as "for sale" units. With respect to the residential condominiums, prior to recordation of the final subdivision map, the applicant shall provide evidence obtained from the State of California Department of Real Estate that it has received a substantially completed subdivision public report application. Prior to receipt of a certificate of occupancy for the residential condominiums, the applicant shall provide evidence that CC&Rs (in substantial conformance with the CC&Rs previously approved by the Development Services Director and City Attorney's office with respect to the provisions set forth in condition 4 above (only)) have been recorded and that a homeowners association has been established. Subject to compliance with the above conditions, all 151 residential condominiums may be initially offered as rental units and applicant may continue to rent and/or lease the units for an indefinite period of time. Notwithstanding the foregoing, (1) the subdivision map shall be final and recorded prior to issuance of building permits; (2) park fees currently estimated at approximately \$1.6 million dollars shall be remitted to the City prior to approval of the final map; and (3) the residential condominium units shall be constructed to condominium building standards (e.g. advanced noise attenuated walls, increased firewall standards). If, at any time after completion of the residential condominiums, the Developer decides to sell the individual units, provided Developer has a valid Final Public Report from the Department of Real Estate, no further approval from the City shall be required (**revised June 23, 2008 per ZA-08-17**).
18. The site plan submitted with initial working drawings shall contain a notation specifying that the project is a "common interest development" and shall specify the ultimate development property lines.
19. To avoid an alley-like appearance, the private street shall not be entirely paved with asphalt nor be developed with a center concrete swale. The entry/exit drive of the private street shall be made of stamped concrete or pervious pavers. The final landscape concept plan shall indicate the landscape palette and the design/material of paved areas, and the landscape/hardscape plan shall be approved by the Planning Division prior to issuance of building permits.
20. The subject property's ultimate finished grade level may not be filled/raised in excess of 30" above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable onsite storm water flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official and City Engineer prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public storm water facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall continuously be

maintained in working order. In any case, development of the subject property shall preserve or improve the existing pattern of drainage on abutting properties.

21. Street trees in the landscape parkway shall be selected from Appendix D of the Streetscape and Median Development Standards and appropriately sized and spaced (e.g. 15-gallon size planted at 30' on centers), or as determined by the Development Services Director once the determination of parkway size is made. The final landscape concept plan shall indicate the design and material of these areas, and the landscape/hardscape plan shall be approved by the Planning Division prior to issuance of building permits.
22. The landscape plan shall feature 24-inch box trees and 5-gallon shrubs that exceed the minimum size requirements of trees and shrubs as described in the City's landscaping standards to the satisfaction of the Development Services Director. Specifically, the 10-foot street setback areas along Monrovia Avenue and Babcock Street shall be landscaped with trees and vegetation to the fullest extent possible. The landscape plan shall be approved prior to issuance of building permits. The landscape palette shall incorporate native California plants and/or drought tolerant plant species.
23. The interior landscaped areas (approximately 30' x 30' areas) along the clubhouse and along the north elevation of the parking structure shall be considered as passive recreational areas. Street furniture and lighting shall be installed in these areas to encourage passive use by the residents (i.e. reading, visiting with guests, etc.).
24. Prior to submission of a final landscape plan, developer shall seek approval from the Parks and Recreation Commission for the removal of any trees within the public right-of-way. Commission will require that the City be compensated for the loss of street trees in the public right-of-way pursuant to a 3-to-1 tree replacement ratio. Any conditions imposed by the Parks and Recreation Commission shall be identified on the final landscape plan. The developer is advised that the approval process may take up to three months; therefore, it is advised to identify any affected trees and make a timely application to the Parks and Recreation Commission to avoid possible delays.
25. The project site shall be graded in a manner to eliminate the necessity of retaining walls within the project site to the maximum extent feasible. This condition excludes the proposed perimeter retaining walls along the development lot lines.
26. Unless as otherwise permitted pursuant to an approved Planned Signing Program, the following shall apply: There shall be no signage above the second floor of the commercial buildings. There shall be no signage above the first floor of the live/work units. Building wall signage for the residential component shall be limited to the identification of the residential development in the form of a monument sign, entry sign, and directional signage.
27. No modification(s) of the approved building elevations including, but not limited to, changes that increase the building height, removal of building articulation, or a change of the finish material(s), shall be made during construction without prior Planning Division written approval. Failure to obtain prior Planning Division approval of the modification could result in the requirement of the applicant to

- (re)process the modification through a discretionary review process such as an amendment to the Master Plan, or in the requirement to modify the construction to reflect the approved plans. Applicant shall contact the Planning Division at 714-754-5245 to obtain authorization for any revisions.
28. The developer shall contact the current cable service provider prior to issuance of building permits to arrange for pre-wiring for future cable communication service.
  29. The developer shall contact the Planning Division to arrange for an inspection of the site prior to the final inspections. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
  30. Nighttime lighting shall be minimized to provide adequate security and creative illumination of building, sculptures, fountains, and artwork to the satisfaction of the Development Services Director. Any lighting under the control of the developer shall be directed in such a manner so as to not unreasonably interfere with the quiet enjoyment of nearby residential uses, including on-site residential uses.
  31. The nonresidential buildings shall use low reflective glass and building materials to minimize daytime glare to the fullest extent possible.
  32. Show method of screening for all ground-mounted equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). With the exception of back-flow prevention devices, ground-mounted equipment shall not be located in any landscaped setback visible from the street and shall be screened from view, under the direction of Planning Staff.
  33. If the project is constructed in phases, the decorative block wall, landscaping within the street setback areas, and irrigation shall be installed prior to the release of utilities for the first phase.
  34. Prior to submittal of working plans for plan check, applicant shall submit a written determination from the Sanitary District and/or any private trash hauler that trash collection service can be provided to each individual live/work unit. This letter shall be remitted to the Planning Division prior to issuance of building permits.
  35. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 6 p.m. on Saturday. Construction is prohibited on Sundays and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
  36. Energy efficient exterior doors and windows shall be installed on all building elevations.
  37. Install appliances, water heaters, and light fixtures with Energy Star or better rated appliances and fixtures including a programmable heating system.

## Eng.

- 38. Developer shall maintain the public right-of-way in a "wet-down" condition to prevent excessive dust and promptly remove any spillage from the public right-of-way by sweeping or sprinkling.
- 39. Developer shall submit a hydrology/hydraulic study for review/approval by the City Engineer prior to issuance of grading permits.
- 40. Developer shall comply with any conditions of approval as indicated in the City Engineer's letter dated October 1, 2007 (attached).

## Trans.

- 41. Developer shall remove "dead-end" driveway on Monrovia Avenue. If fire access is required to be shown on the building plans during plancheck, construct a half height curb for emergency access and paint red curb to restrict parking in this area.
- 42. Developer shall construct Type II drive approach at locations submitted on site plan. Developer shall comply with minimum clearance requirements from the property lines and any vertical obstructions.
- 43. Prior to issuance of building permits for the parking structure, developer shall submit a final parking management plan denoting (1) method of allocation of assigned parking; (2) location of visitor parking including appropriate signage; (3) location of security gates and how these gates will be operated;
- 44. Developer shall relocate powerpole, fire hydrant, and all of the utilities necessary to accommodate new driveway approaches.
- 45. Developer shall close unused drive approaches with full height curb and gutter.
- 46. Developer shall remove existing red curb paint along property frontage on Monrovia Avenue and Babcock Street to accommodate additional on-street parking.
- 47. Developer shall submit detailed plans for parking structure providing dimensions for all parking spaces and aisle widths per City standard.
- 48. Developer shall identify width of drive aisle and island approaching the gated residential entry. Provide a minimum of 40-foot total overall width at guest lane, including median and entry/exit driveway for turnaround.
- 49. Developer shall identify width of drive aisle adjacent to garages between main access drive and office parking lot.
- 50. Developer shall identify ramp slopes within the parking structure and comply with the City's ramp slope standards. Ramps with parking shall not exceed 5 percent slope.

Fire

51. Water mains and hydrants shall be installed to the standards of the Mesa Consolidated Water District and dedicated along with repair easements to that agency.
52. The on-site hydrant shall be attached to the underground mains of the fire sprinkler system or installed to the standards of the Mesa Consolidated Water District and be dedicated along with repair easements to that agency.
53. Developer shall show existing and proposed fire hydrants for the project on the site plan.
54. Developer shall provide a fire alarm system for the 4-story residential units.
55. Developer shall extend Drive F so that the Fire Department can ladder the building from the drive. However, the drive must be no longer than 150' or a turnaround will be required.

Police

56. Developer shall work with the Police Department in implementing security recommendations to the maximum extent feasible, as specified in correspondence from the Police Department, dated September 26, 2007.

**EXHIBIT "C"**

**Mitigation Monitoring Program**



# **CITY OF COSTA MESA**

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

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DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT,**

**PLEASE CONTACT THE CITY CLERK'S OFFICE**

**AT (714) 754-5121**